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SUBJECT: NICARAGUA: 2007-2008 ACTION PLAN TO RESOLVE U.S. CITIZEN
PROPERTY CLAIMS

REF: A) MANAGUA 2324 B) MANAGUA 2006 C) MANAGUA 2376

SUMMARY

1. (SBU) During the current waiver year, the GON has logged the poorest performance of any Nicaraguan administration since the U.S. Congress passed the FY1994-95 Foreign Relations Authorization Act, with its provisions on expropriation cases contained in Section 527. Post has developed an action plan to reengage the Government of Nicaragua regarding the resolution of U.S. citizen property claims. The plan incorporates the following actions: a) seek GON concurrence with USG expectations for the 2007-08 waiver year; b) review progress in January 2008; c) improve outreach to U.S. citizen claimants; and d) clarify the GON's plan to resolve all property claims in two years. Implementation of the action plan will remind the GON that the resolution of U.S. citizen property claims is a central issue in the U.S.-Nicaragua bilateral relationship.

CHALLENGES FOR THE 2007-2008 WAIVER YEAR

2. (SBU) During the first ten months of the Sandinista administration, the Government of Nicaragua (GON) has resolved only seven Embassy-registered property claims, five of which linked to the same U.S. citizen. Local courts have settled two claims for two U.S. citizens. These results stand in sharp contrast to the close working relationship we enjoyed with the GON during the Bolanos administration, when an average of 159 cases were resolved per calendar year.

3. (SBU) We have been working to reengage the GON on outstanding U.S. citizen claims, but have been hampered by limitations on the number of working-level meetings placed on us by Attorney General Hernan Estrada. At the monthly working group meeting on October 25, Property Superintendent Yara Perez Perez again raised policy issues related to GON insistence that the cases of natural-born U.S. citizens be prioritized over those of naturalized U.S. citizens. Other issues complicating our efforts include frequent staffing changes at the Office of the Property Superintendent; infighting within the FSLN over property disputes; and, the GON's ongoing review of claims resolutions issued by the Chamorro, Aleman and Bolanos administrations. Refs A, B, and C provide additional information on these issues.

ACTION PLAN

4. (SBU) Given these challenges, the Embassy's Property Office has developed the following action plan to hopefully nudge the GON back

on track for the 2007-08 waiver year to resolve Embassy-registered U.S. citizen property claims:

a) Seek GON concurrence with USG expectations for the 2007-08 waiver year: With the support of the Bureau of Legal Affairs, we will provide GON officials with in-depth explanations of Section 527 of the 1994 and 1995 Foreign Relations Authorization Act. We will also discuss international and Nicaraguan law as it relates to the protection of property rights, and press for claims resolution. We will reemphasize the importance of the monthly working group meeting as a regular forum for the GON and Embassy to resolve property claims, but stress that this event should not preclude day-to-day exchanges to move cases forward. Along these lines, the Ambassador told Foreign Minister Samuel Santos on November 15 that he was concerned by the lack of GON progress on claims resolution in recent months.

b) Review progress in January 2008: The Ambassador will propose a meeting with Attorney General Hernan Estrada in January to discuss mid-year progress, assess a full year of the Ortega Administration in this area, and propose benchmarks for the remainder of the waiver year (The waiver began on August 1, 2007, and ends July 31, 2008).

c) Improve outreach to U.S. claimants: The Embassy's Property Office will update and modify its database to better track Embassy-registered U.S. citizen claims. The office will reach out to claimants with whom there has been little contact in the last three years to determine the status of their claims. The Property Office will confer with the Bureau of Legal Affairs on next steps.

d) Clarify the GON's plan to resolve all property claims in two years: The Embassy's Property Office will engage GON officials on their stated goal to resolve all outstanding property claims in two years. We are concerned that if the GON terminates its

administrative process for settling claims, U.S. citizens will have only a corrupt and inefficient court system through which to pursue their claims.

COMMENT

15. (SBU) At the very least, implementation of this action plan will send a clear message to the GON that the resolution of U.S. citizen property claims remains a central issue in the U.S.-Nicaragua bilateral relationship. During the current waiver year, the GON has logged the poorest performance of any Nicaraguan administration since the U.S. Congress passed the FY1994-95 Foreign Relations Authorization Act.

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